



# Your Rights as a State Employee Called to Active Military Duty for Mobilization

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[The following information applies to classified and unclassified employees.]

A copy of your military orders, requiring your absence from work, must be submitted to your Appointing Authority in order for your employment rights to be officially recognized and allow for agency preparation of your planned absence.

## **HEALTH INSURANCE DURING MOBILIZATION:**

As a state employee reporting for active duty you are automatically covered by the Defense Department's health insurance program. You may elect either to stop state coverage upon activation or to continue coverage under the state's group health insurance. Both of these options apply whether you have single coverage or any level of dependent coverage.

If you elect to stop health insurance coverage, the coverage will terminate on the last day of the pay period in which you are activated. Your agency insurance coordinator may recover premiums paid by, or on behalf of, you for the following month. When you return to state employment, health benefits will be reinstated effective immediately with no waiting period and no penalty just as though you had not left state service.

If you elect to maintain state health insurance coverage while on military leave without pay you must make arrangements with your agency's insurance coordinator to continue premium payments. Payments must be made by the 15th of a month to continue coverage for the following month. You may maintain state health insurance coverage in this manner for the duration of active military duty up to 24 months.

If you carry a dependent on your plan, and your dependent is called to active duty, this is a qualifying event that allows you to remove them from coverage and change the level of coverage. Of course you also have the option to continue to pay the same premiums and continue coverage on your dependent.

Provided you return to work within 90 days of discharge, any coverage (or equivalent plan currently available) that was in effect when you left for active duty will be reinstated for both you and your dependents.

## **LIFE INSURANCE DURING MOBILIZATION:**

The state-sponsored life insurance is paid by the employer for the month you are called up and the following month. However, you are responsible for making the premium payments for any additional policies.

You can make a monthly premium payment of \$ 1.28 to keep the basic life insurance policy of \$20,000 active and also make payments for any additional coverage while on approved military leave without pay for a period of 12 months.

The State, under KRS 61.315, also pays an \$80,000 death gratuity to the surviving family members (spouse/children, split evenly, or parents if no spouse) of Guardsmen and Reservists whose death occurs as a direct result of an act in the line of duty while serving on State Active Duty or Federal Active Duty (Title 10) orders.

For more information on the state-sponsored life insurance covered by the Commonwealth of Kentucky, please contact the Personnel Cabinet's Group Life Insurance Branch at (502) 564-4774.

The military also provides life insurance to active duty service members. Details on this coverage can be obtained from your unit's personnel services representative.

#### **RETIREMENT BENEFITS:**

Your retirement benefits will remain intact. If you are vested at the time of mobilization, you will be vested upon your return. However, please be aware that although you will be credited with the appropriate months of service for retirement purposes (no leave will be accrued while on military leave without pay) upon presentation of a DD-214, contributions by the state to the retirement plan will be suspended during the period you are on military leave without pay. If you have additional questions, please contact the Kentucky Retirement Systems at (502) 696-8800 or (800) 928-4646.

#### **MILITARY LEAVE:**

Official leave must be requested in order to avoid being dismissed for abandonment of your job. As instructed at the beginning of this letter, a copy of your orders should be provided to your Appointing Authority to initiate this request.

State employees who are active members of the United States Army Reserve, the United States Naval Reserve, the United States Air Force Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the National Guard, are credited with twenty-one (21) working days of military leave for the purpose of fulfilling state and/or federal active duty orders, per federal fiscal year (October 1 – September 30), provided your orders require your absence from your state job.

For additional information on and designation of leave usage (military, annual, compensatory, and leave without pay) please review and complete the Military Leave – Designation Form, also included in this packet.

**MARRIED EMPLOYEES/SOLDIERS:** If your spouse is a state employee he or she shall be granted one day paid leave prior to your deployment and one day paid leave upon your return from deployment, per federal fiscal year (October-September), according to KRS 18A.190.

Your spouse's appointing authority may require your spouse to present a copy of your military orders prior to approving the use of this leave as well, so please be certain to provide an additional copy of these orders to your spouse for this purpose.

#### **FAMILY AND MEDICAL LEAVE ACT:**

On January 28, 2008, new FMLA leave entitlements for military families ("military family leave provisions") were implemented. The National Defense Authorization Act for FY 2008 ("NDAA"), Public Law 110-181, amended the FMLA to provide two types of military family leave for FMLA-eligible employees. The new FMLA regulations include these two types of military family leave referred to as "qualifying exigency leave" and "military caregiver leave." For more information regarding these specific provisions, please refer to the [Military Family Leave Provisions of the FMLA: Frequently Asked Questions and Answers](#) document provided in this packet.

#### **RETURNING TO WORK (REEMPLOYMENT/REINSTATEMENT):**

Generally, once relieved or discharged from military duty under conditions other than dishonorable military duty, you have a period of \*ninety (90) days to notify your agency of your intent to return to your employment position by either reporting to work or applying for reemployment. You have the right to be restored to your former position or a position of like seniority, status and pay.

\*If hospitalized or receiving continuing treatment after release, you have a period of one (1) year to apply for reemployment. Notably, you must be relieved in order to be entitled to exercise these restoration rights. Please see KRS 61.373 for complete information with respect to military restoration rights.

You are entitled to any pay raises that would have been granted, as well as seniority that would have accrued, and your increment date does not change. You will be credited with the appropriate months of service upon presentation of a DD-214 to your agency Human Resource Administrator. Please note that while you are entitled to months of service for the purpose of leave accrual, you do not accrue annual or sick leave while on military leave without pay.

If you are wounded or disabled and unable to perform your job upon return, the state must offer a position similar in status and pay to the previous job for which you are qualified and able to perform.

Upon returning from military duty you (whether merit or non-merit) may not be terminated except for cause for a period of one (1) year after restoration to a position following military duty. However, if your position was abolished as a result of a lay-off, or your name was included in a lay-off plan, you would not be able to reclaim your job immediately. You would retain reemployment rights as if you had not left your job (i.e., placement on the re-employment lists with all seniority rights intact).

In the case that you do not agree that you have been afforded your restoration rights under state law, you may file an appeal with the Personnel Board. Other remedies may also exist, pursuant to the Uniformed Services Employment and Reemployment Rights Act (USERRA). If you have questions about your return position or employment status, you should contact your agency HR Administrator.

In a time of peace, you retain restoration rights for a period of six (6) years. However, in a time of war or national state emergency, you retain these rights for the duration of the time of war or national emergency plus six (6) months.

*NOTE:* On September 9, 2011, President Barack Obama gave notice of a continuation of the Notice of Continuation of the National Emergency with Respect to Certain Terrorist Attacks. This notice continues the national emergency that was declared as a result of the terrorist attacks of September 11, 2001 for an additional year. So long as this state of national emergency exists, KRS 61.373 shall be applied accordingly.